

Legal Concerns for an Orthodontist

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ABSTRACT

Orthodontic treatment enhances smile and improves facial esthetics, thus patient expectations from an orthodontist are much more. But sometimes orthodontic failure can occur leading to dissatisfied patient which can be a legal challenge for an orthodontist. Therefore, one must be aware of the potential hazards of orthodontic treatment and explain it to patients as well as it is imperative that all orthodontist should be aware of medicolegal aspect of orthodontic practice.

Keywords: Medicolegal, Orthodontic malpractice, Negligence.

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INTRODUCTION

Orthodontist are surely not an exception when it comes to a medical malpractice lawsuits. Especially, in this current era of increasing consumerism we need to be more careful and aware of the medicolegal laws as the patients are becoming more consumer oriented. This article will be discussing some of the common orthodontic treatment failures which when neglected can be called as orthodontic malpractice, wherein the plaintiff (patient) can file a malpractice lawsuit to recover damages. Therefore, it is essential on our part to have some legal knowledge concerning orthodontic practice and measures to be taken for safe practice.

Orthodontic failures due to following reasons:

Root Resorption

Root resorption till 1 to 2 mm in orthodontic treatment do not affect the long-term stability of the teeth.¹ But in case where more than a quarter of root length is lost due to excessive orthodontic forces, vitality of the teeth is at risk.² Mostly, the teeth with short roots and pipette shape are more prone to resorption.^{3,4}

Loss of Periodontal Ligament (PDL) Support

During fixed orthodontic treatment usually there is a transient gingival inflammation and pseudopocketing. But in patients

where periodontal problems exist prior to orthodontic treatment, the chances of recession and bone loss are more.⁵⁻⁹

Caries/Decalcification

Patient undergoing orthodontic treatment have reported to develop enamel opacity.¹⁰⁻¹² To avoid white spots on enamel patient should be instructed to maintain good oral hygiene and periodic scaling of teeth should also be done when required.

Soft Tissue Damage

Sharp uncut ends of the orthodontic archwires can cause pain and ulceration in the oral mucosa. Patient allergic to the NiTi wires develop soreness and redness of the oral mucosa.¹³

Error in Diagnosis and Treatment Plan

Failure to diagnose early any undermining periodontal problem during orthodontic treatment can lead to bone resorption. Extractions should be properly planned and justified.

Failure to Obtain Proper Inform Consent

One must be very particular in obtaining patient consent, mentioning all available treatment options and hazards of the orthodontic treatment.¹⁴

Anchorage Loss

Anchorage loss during orthodontic treatment can lead to unsettled occlusion, residual spacing, traumatic bite, etc. causing treatment failure.¹⁵

Now, since we are familiar with the failures of orthodontic treatment and the potential risk involved, we should try to limit the problems in the initial stages itself in order to prevent permanent injury or loss to the patient. For a viable malpractice lawsuit, following factors should be present to prove orthodontist negligent:

- That orthodontist owed certain duty of care
- That there was breach in duty of care by the orthodontist
- Failure of duty lead to injury to the patient
- That there was a close proximity between negligence and the injury.¹⁵

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Nonnegligent Acts

- a. Not obtaining consent in emergency
- b. When patient does not follow orthodontist advice and not satisfied with the results, does not hold the orthodontist negligent
- c. Charging what patient thinks exorbitant is not negligence.

The burden of proving orthodontist negligence lies on the plaintiff (patient).

Few measures to avoid medicolegal litigations as follows:

- i. Always record the case history, obtain patient consent in detail.
- ii. Maintain detail records and make good clinical notes.
- iii. Refer the case to specialist when required.
- iv. Explain the patient about the relapse of orthodontic treatment due to frequent breakages and not following retention phase.
- v. Importance of maintaining good oral hygiene especially in orthodontic treatment should be explained.
- vi. Negative records, such as refusal to any investigation, failure to come for review should be maintained as it may help in defending orthodontic malpractice lawsuit.
- vii. Mention your recognized degree/diploma on the prescription along with the date, time of consultation, age and sex of patient.
- viii. Preferably employ qualified and certified assistant staff.
- ix. Insurance coverage for the orthodontist as well as the assistant staff.
- x. Last but most important is good communication with the patient, as several lawsuits have arisen just because patient was not satisfied with the doctor or other staff and lack of good communication between them.
- xi. Updating with the recent advances and knowledge by regularly attending the workshops and courses.

CONCLUSION

Orthodontic failures do occur sometime, but we should be able to diagnose it early and rectify the same. Good communication, can at times get one out of such unfortunate situations. In case where the orthodontist is liable to face a medicolegal lawsuit, he/she should hire an attorney and be prepared with all possible

records of the patient available. Having some knowledge of medicolegal background would certainly help an orthodontist to practice in a more confident and safe way.

REFERENCES

1. Brezniak N, Wasserstein A. Root resorption after orthodontic treatment (Part 1). Literature review. *Am J Orthod Dentofac Orthop* 1993;103:62-66.
2. Kaley J, Phillips C. Factors related to root resorption in edgewise practice. *Angle Orthod* 1991;61:125-32.
3. Linge BO, Linge L. Apical root resorption in upper anterior teeth. *Eur J Orthod* 1983;5:173-83.
4. Levander E, Malmgren O. Evaluation of the risk of root resorption during orthodontic treatment: A study of upper incisors. *Eur J Orthod* 1988;10:30-38.
5. Alstad S, Zachrisson BU. Longitudinal study of periodontal condition associated with orthodontic treatment in adolescents. *Am J Orthod Dentofac Orthop* 1979;76:277-86.
6. Sadowsky C, BeGole EA. Long-term effects of orthodontic treatment on periodontal health. *Am J Orthod* 1981;80:156-72.
7. Polson AM, Subtelny JD, Meitner SW, et al. Long term periodontal status after orthodontic treatment. *Am J Orthod Dentofac Orthop* 1988;93:51-58.
8. Zachrisson BU. Cause and prevention of injuries to teeth and supporting structures during orthodontic treatment. *Am J Orthod* 1976;69:285-300.
9. Boyd RL, Leggott PJ, Quinn RS, Eakle WS, Chambers D. Periodontal implications of orthodontic treatment in adults with reduced or normal periodontal tissues versus those of adolescents. *Am J Orthod Dentofac Orthop* 1989;96:191-98.
10. Gorelick L, Geiger AM, Gwinnett AJ. Incidence of white spot formation after bonding and banding. *Am J Orthod* 1982;81:93-98.
11. Ogaard B. Prevalence of white spot lesions in 19-year-old: A study on untreated and orthodontically treated persons 5 years after treatment. *Am J Orthod Dentofac Orthop* 1989;96:423-27.
12. Jon A, Bjorn B. Prevalence of carious white spots after orthodontic treatment with multibonded appliances. *Eur J Orthod* 1986;8(4):229-34.
13. Pamela E, Philip B. Potential hazards of orthodontic treatment—what your patient should know? *Dental Update* 2002;29:492-96.
14. William M. Dental jurisprudence: The law relating to dentist and the practice of dentistry, Chapter 3; 40-49.
15. George P. Medical law for dental surgeon, Chapter 6;39-47.

